IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8287 OF 2007

Madhukar Dattatraya Chaudhary ...Petitioner

V/s.

State of Maharashtra & Ors. ...Respondents

Mr. U.P. Warunjikar for the Petitioner

Mr. C.R. Sonawane, Assistant Government Pleader,
for the Respondent-State.

CORAM: **J.N. PATEL AND**
SMT. NISHITA MHATRE, JJ.
DATE: **DECEMBER 7, 2007**

P.C.:-

1. This is a fresh petition filed by the petitioner after the earlier petition on the same subject-matter, i.e., Writ Petition No. 612 of 2001, came to be dismissed for non-prosecution. Not only this, an application in the said petition for restoration, which was filed after 7 years, also came to be dismissed by a Division Bench of this Court by its order dated 30th March, 2007. We are, therefore, not inclined to entertain a fresh petition on the

same subject-matter, particularly in view of the decision of the Supreme Court in the case of *State of U.P. & Anr. v. Labh Chand* [(1993) 2 S.C.C. 495].

2. We do appreciate the efforts made by the learned counsel for the petitioner to persuade us to entertain the petition by canvassing that it lies within the discretion of this Court. Even if we accept this proposition, we find that it is not a fit case that this Court should use its discretion.

3. We, therefore, dismiss this petition with an observation that in case the petitioner has any other remedy available under law, he may avail of it.

J.N. PATEL, J.

SMT. NISHITA MHATRE, J.